

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
HERAEUS KULZER LLC,)	
)	Case No. 12-11099-RGS
Plaintiff,)	
)	
v.)	
)	
OMNI DENTAL SUPPLY,)	
)	
Defendant.)	
_____)	

DECLARATION OF JEANNIE NGAI

I, Jeannie Ngai, declare as follows:

1. I am a litigation paralegal at Ostrolenk, Faber LLP, a lawfirm that represents the Defendant in the above-captioned matter and submits the instant Declaration in support of the Defendant's Motion for Summary Judgment.
2. **Exhibit 1** is a true and correct copy of publicly available and Internet accessible corporate organization papers for the companies: Heraeus Holding; Heraeus Kulzer GmbH; the Plaintiff Heraeus Kulzer LLC; and other Heraeus companies.
3. **Exhibit 2** is a true and correct copy of Responses to Document Requests provided by the Plaintiff in this action.
4. **Exhibit 3** is a true and correct copy of excerpts from the deposition transcript of P. Christopher Holden dated March 21, 2013.

5. **Exhibit 4** is a true and correct copy of papers publicly available from the Federal U.S. Food and Drug Administration ("FDA") which relate to products in the instant action.

6. **Exhibit 5** is a true and correct copy of a May 25, 2011 Press Release issued by the Plaintiff.

7. **Exhibit 6** is a true and correct copy of excerpts from the deposition transcript of Plaintiff's Director of Dealer Relations, George Romero dated March 19, 2013.

8. **Exhibit 7** is a true and correct copy of Responses to Requests for Admissions submitted by the Plaintiff.

9. **Exhibit 8** is a true and correct copy of Heraeus America product descriptions of certain products in this lawsuit.

10. **Exhibit 9** is a true and correct copy of an Exclusive Importation Agreement entered into between the Plaintiff and Heraeus Kulzer GmbH.

11. **Exhibit 10** is a true and correct copy of a subpoena served on Heraeus Kulzer GmbH.

12. **Exhibit 11** is a true and correct copy of publicly available documents describing Heraeus Inc., a corporate entity related to the Plaintiff in this action.

13. **Exhibit 12** is a true and correct copy of inner correspondence dated March 5, 2013 from Morgan Nickerson to Max Moskowitz and others.

14. **Exhibit 13** is a true and correct copy of excerpts from the deposition transcript of Dr. John R. Langston dated March 22, 2013.

15. **Exhibit 14** is a true and correct copy of registration and ownership documents obtained directly from the United States Patent and Trademark Office in relation to the trademarks in this lawsuit.

16. **Exhibit 15** is a true and correct copy of documents produced by the Plaintiff in this litigation, as Bates Nos.: HER 1-17.

17. **Exhibit 16** is a true and correct copy of the First Amended Complaint [Docket # 4] filed in this action.

18. **Exhibit 17** is a true and correct copy of the genuine *Durafill*® products sold by Plaintiff marked as Exhibit 47 at the Holden Deposition, including a photo of the product inside and photocopies of the outer box and portion of the instructions.

19. **Exhibit 18** is a true and correct copy of the genuine *Gluma Desensitizer*® products sold by Plaintiff marked as Exhibit 43 at the Holden Deposition, including a photo of the product inside and photocopies of the outer box and portion of the instructions.

20. **Exhibit 19** is a true and correct copy of the genuine *Charisma*® products sold by Plaintiff marked as Exhibit 46 at the Holden Deposition, including a photo of the product inside and photocopies of the outer box and portion of the instructions.

21. **Exhibit 20** is a true and correct copy of the genuine *iBond*® products sold by Plaintiff marked as Exhibit 45 at the Holden Deposition, including a photo of the product inside and photocopies of the outer box and portion of the instructions.

22. **Exhibit 21** is a true and correct copy of publicly available search results obtained from the records of the U.S. Customs and Border Protection agency ("CBP") for the Heraeus Trademarks in the present lawsuit.

I declare under penalty of perjury that the foregoing is true.

Dated: April 16, 2013
New York, New York



JEANNIE NGAI